

COMMON COUNCIL



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I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this 15th day of August, 2013, that the following Ordinance is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in special session on the 13th day of August 2013.

DIVISION 3. EXEMPTION FOR ELDERLY AND DISABLED.

SECTION 27-19. GENERAL PROVISIONS.

- (a) The commissioner shall, upon application made upon the terms hereinafter provided, order exemption of tax on real property owned and occupied as the sole dwelling house of a person or persons either (i) at least sixty-five (65) years of age as of December 31st of the year preceding the year applied for; or (ii) permanently and totally disabled as defined in §58.1-3217 of the Code of Virginia, such exemption to be granted only upon the restrictions and conditions hereinafter established.

~~(b) Any owner receiving a permanent or temporary disability benefit may claim an exclusion for up to five thousand and 00/100 dollars (\$5000.00) for any permanent or temporary disability benefit, from whatever source, received by an owner. In addition, any owner who can prove to the satisfaction of the Commissioner by a preponderance of the evidence that he or she is permanently and totally disabled as defined under §58.1-3217 of the Code of Virginia may claim an exclusion of up to ten thousand and 00/100 dollars (\$10,000.00) of said owner's income. (Ord. No. 2007-30, 9-11-07; Ord. No. 2010-45, 11-9-10)~~

~~(c)~~

~~(b) Subject to subdivision (c) of this section, the~~ The total combined income received from all sources during the preceding calendar year by: (i) owners of the dwelling who use it as their principal residence and (ii) owners' relatives who live in the dwelling and (iii) nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner, shall not exceed ~~Fifty Thousand Dollars (\$50,000.00)~~ Forty Thousand Dollars (\$40,000); ~~Six Thousand Five Hundred Dollars (\$6,500.00) of income of each relative who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption provided by subdivision (c) hereof, and Six Thousand Five Hundred Dollars (\$6,500.00) of income of each nonrelative who is not the bona fide tenant or bona fide paid caregiver of an owner living in the dwelling and who does not qualify for the exemption provided by subdivision (c) hereof, is excluded from the total combined income calculation.~~ (Ord. No. 017-2004, 4-28-04; Ord. No. 2010-45, 11-9-10)

~~(d) Notwithstanding subdivision (b) of this section, if a person qualifies for an exemption or deferral under this article, and if the person can prove by clear and convincing evidence that after so qualifying the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if a relative does then move in for that purpose, then none of the relative's income shall be counted towards the income limit provided that the owner of the residence has not transferred to the relative assets in excess of Five Thousand Dollars (\$5,000.00) without adequate consideration within a three-year period prior to or after the relative moves into the residence. (Ord. No. 027-93, 10-12-93)~~

~~(e)~~(c) The net combined financial worth, including the present value of all equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling, furnishings, and the land, not exceeding one acre, upon which it is situated shall not exceed the following amounts effective on the stated dates:

Effective January 1, 2006	\$150,000
Effective January 1, 2007 and thereafter	\$200,000
<u>Effective January 1, 2014 and thereafter</u>	<u>\$75,000</u> —(Recommendation)

Such furnishings shall include furniture, household appliances and other items typically used in a home.

~~(f)~~(d) For purposes of this article, any reference to real estate shall include manufactured homes.

~~(Note: The effective date of this Ordinance shall be January 1, 2006)~~

(Ords. of 1-14-75, 4-13-76, 12-14-76; Ord. Nos. 017-80, 10-14-80; 011-82, 7-13-82; 004-84, 3-14-84; 003-88, 1-12-88; 018-91, 4-23-91; 044-91, 11-12-91; Ord. No. 017-92, 11-10-92; Ord. No. 046-2001, 12-11-01-effective 1-1-02; Ord. No. 017-2004, 4-28-04; Ord. No. 015-2005, 5-10-05; Ord. No. 2007-30, 9-11-07)

State Law References--Code of Virginia, §58.1-3210, §58.1-3211.1, §58.1-3212.

SECTION 27-20. ANNUAL APPLICATION AND AFFIDAVIT.

- (a) The person claiming such exemption shall file annually with the commissioner on forms supplied by the City, an affidavit setting forth (i) the names of the related persons occupying such real estate and (ii) that the total combined net worth, including equitable interests and the combined income from all sources, of the persons specified in Section 27-19 do not exceed the limits prescribed in that section.
- (b) If such person is under sixty-five years of age such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs or the

Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that the person is permanently and totally disabled, as defined in Virginia Code §58.1-317; however, a certification pursuant to 42 U.S.C. 423 (d) by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in Virginia Code Ann. §58.1-3217. The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in Code of Virginia, §58.1-3217.

- (c) Such application with affidavit shall be filed no later than the first day of April of each year, except that the Commissioner may accept up until April 15, later filings from owners otherwise meeting the provisions of this section who are unable to file by the first day of April due to personal or family illness or other ascertainable hardships, provided that such real estate tax exemption affidavit is accompanied by a sworn affidavit of a licensed medical doctor or other documentation deemed satisfactory by the Commissioner. The Commissioner may also accept later filings from owners and at the time of a purchase of a house. ~~Any false statements made in connection with the filing of an application under this section shall constitute a misdemeanor, punishable by a fine not exceeding one hundred dollars (\$100.00).~~ (Ord. No. 044-88, 11-15-88; Ord. No. 044-91, 11-12-91; Ord. No. 017-92, 11-10-92; Ord. No. 2010-45, 11-9-10)

State Law Reference-- Code of Virginia, §58.1-3213 ~~F~~.

SECTION 27-21. INQUIRIES BY THE COMMISSIONER.

The Commissioner shall make further inquiry of persons seeking such exemption as may be reasonably necessary in determining the qualifications therefor. The Commissioner may require production of certified tax returns to establish the financial worth or income of any applicant. Such further inquiries shall be answered under oath. (Ord. No. 044-88, 11-15-88; Ord. No. 044-91, 11-12-91; Ord. No. 017-92, 11-10-92)

State Law Reference--Code of Virginia, §58.1-3213 ~~F~~.

SECTION 27-22. NOTICE OF LOCAL REAL ESTATE TAX EXEMPTION ~~OR DEFERRAL~~ PROGRAM FOR THE ELDERLY AND DISABLED.

The Treasurer shall enclose written notice, in each real estate tax bill, of the terms and conditions of the real estate tax exemption program established in this article. The Treasurer shall also employ any other reasonable means necessary to notify residents of the City about the terms and conditions of the real estate tax exemption program for elderly and disabled residents of the City. (Ord. No. 017-92, 11-10-92)

State Law Reference-- Code of Virginia, §58.1-3213.1.

SECTION 27-23. AMOUNT OF EXEMPTION.

For eligible claimants, the amount of exemption from real estate tax for any taxable year shall be as follows:

Effective January 2006:

<u>Income Level</u>	<u>Exemption</u>
\$ 0 - \$25,000	100%
\$25,001 - \$30,000	80%
\$30,001 - \$35,000	60%
\$35,001 - \$40,000	40%
\$40,001 - \$50,000	20%

~~Beginning January 1, 2007, and thereafter, the following shall apply:~~Effective January 2007:

<u>Income Level</u>	<u>Exemption</u>
\$ 0 - \$30,000	100%
\$30,001 - \$35,000	75%
\$35,001 - \$40,000	50%
\$40,001 - \$50,000	25%

~~Proposed e~~Effective January 2008:

<u>Income Level</u>	<u>Exemption</u>
\$ 0 - \$35,000	100%
\$35,001 - \$40,000	75%
\$40,001 - \$45,000	50%
\$45,001 - \$50,000	25%

~~Proposed e~~Effective January 2009:

<u>Income Level</u>	<u>Exemption</u>
\$ 0 - \$40,000	100%
\$40,001 - \$45,000	75%
\$45,001 - \$50,000	50%

Effective January 2014 and thereafter:

<u>Income Level</u>	<u>Exemption</u>
\$0 - \$25,000	\$100 %

<u>\$25,001 - \$30,000</u>	<u>75%</u>
<u>\$30,000 - \$35,000</u>	<u>50%</u>
<u>\$35,001 - \$40,000</u>	<u>25%</u>
<u>At any qualifying level, the maximum exemption amount shall be one thousand five hundred dollars (\$1,500)</u>	

~~(Note: The effective date of this Ordinance shall be January 1, 2008)~~

(Ords. of 1-14-75, 4-13-76, 12-14-76; Ord. No. 018-80, 10-14-80; Ord. No. 011-82, 7-13-82; Ord. No. 004-84, 3-14-84; Ord. No. 003-88, 12-12-88; Ord. No. 018-91, 4-23-91; Ord. No. 044-91, 11-12-91; Ord. No. 017-92, 11-10-92; Ord. No. 046-2001, 12-11-01-effective 1-1-02; Ord. No. 017-2004, 4-28-04; Ord. No. 015-2005, 5-10-05; Ord. No. 2007-20, 6-26-07)

State Law Reference-- Code of Virginia, §58.1-~~3210~~3212.

~~SECTION 27-24. EXEMPTION CERTIFICATE, WARRANT OR DRAFT.~~

~~An exemption certificate, warrant or draft shall be in the amount of the exemption and mailed with the real property tax bill. The tax bill shall be in the full amount of the taxes before any exemption. The certificate, warrant or draft shall expire at 5:00 P.M. on the last day to pay such taxes without penalty. (Ord. No. 044-88, 11-15-88; Ord. No. 044-91, 11-12-91; Ord. No. 017-92, 11-10-92)~~

SECTION 27-25. PROCEDURES.

The Commissioner shall indicate on the land books of the City of Winchester the amount of tax exempted pursuant to the provisions of this article. He shall adopt and promulgate rules and regulations not inconsistent with the provisions of this article, as deemed necessary for the effective administration of this article. (Ord. No. 044-88, 11-15-88; Ord. No. 004-91, 11-12-91; Ord. No. 017-92, 11-10-92)

State Law Reference-- Code of Virginia, §58.1-3213.1.

SECTION 27-26. ABSENCE FROM RESIDENCE.

The fact that persons who are otherwise qualified for tax exemption by this article are residing in hospitals, nursing homes, convalescent homes or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration. (Ord. No. 017-92, 11-10-92)

State Law Reference-- Code of Virginia, §58.1-3214.

SECTION 27-27. CHANGE IN CIRCUMSTANCES.

- (a) Changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided herein shall nullify any exemption for the remainder of the current taxable year and the taxable year immediately following.
- (b) A change in ownership to a spouse, when such change resulted solely from the death of the qualifying individual, or a sale of such property shall result in a prorated exemption for the then current taxable year. The proceeds of the sale which would result in the prorated exemption shall not be included in the computation of net worth or income as provided in subsection (a). Such prorated portion shall be determined by multiplying the amount of the exemption or deferral by a fraction with the number of complete months of the year such property was properly eligible for such exemption or deferral as the numerator and the number twelve as the denominator. (Ord. No. 017-92, 11-10-92)

State Law Reference-- Code of Virginia, §58.1-3215.

Ordinance No. 2013-19

ADOPTED by the Common Council of the City of Winchester on the 13th of August, 2013.

Witness my hand and the seal of the City of Winchester, Virginia.

*Kari J. Van Diest, CMC
Deputy Clerk of the Common Council*